

ORDINANCE NO. 554

AN ORDINANCE OF THE CITY OF LAS ANIMAS, COLORADO, ESTABLISHING THE "CITY OF LAS ANIMAS WATER ACTIVITY ENTERPRISE" UNDER THE PROVISIONS OF TITLE 37, ARTICLE 45.1, COLORADO REVISED STATUTES; AND REPEALING ALL ORDINANCES OR OTHER ACTS IN CONFLICT HEREWITH.

WHEREAS, the City of Las Animas, Colorado (the "City"), is a statutory city and political subdivision of the State of Colorado, duly organized and operating under the constitution and laws of the State of Colorado; and

WHEREAS, the City is authorized by Part 4 of Article 35 of Title 31 of the Colorado Revised Statutes to operate and maintain water facilities for its own use and for the use of public and private consumers and users within and without the territorial boundaries of the municipality; and

WHEREAS, pursuant to §31-35-402, C.R.S., by adoption of an ordinance the City is authorized to issue revenue bonds to finance in whole or in part the cost of acquisition, construction, reconstruction, improvement, betterment, or extensions of the water facilities, and to pledge to the punctual payment of said bonds all or any part of the revenues of the water facilities; and

WHEREAS, pursuant to the provisions of Title 37, Article 45.1, Colorado Revised Statutes (the "Water Activity Law"), state and local governmental entities which have their own bonding capacity under applicable law are authorized: (i) to establish or continue to maintain water activity enterprises for the purpose of pursuing or continuing water activities, which includes the diversion, storage, carriage, delivery, distribution, collection, treatment, use, reuse, augmentation, exchange, or discharge of water; and (ii) to issue or reissue bonds, notes, or other obligations payable from the revenues derived or to be derived from the function, service, benefits, or facility or from any other available funds of the enterprise, the terms and conditions of such bonds or other obligations to be as set forth in the resolution authorizing the same and, as nearly as practicable, as provided in Part 4 of Article 35 of Title 31, C.R.S.; and

WHEREAS, in order to qualify as a water activity enterprise under the Water Activity Law, the enterprise must consist of a government water activity business owned by a governmental entity such as the City, which enterprise receives under 10% of its annual revenues in grants from all Colorado state and local governments combined, and which is authorized to issue its own revenue bonds; and

WHEREAS, the City has heretofore determined and undertaken to acquire and develop certain properties and facilities for the treatment, transmission, distribution, storage, and provision of water (the "System"); and

WHEREAS, the System has been and continues to be operated as a "water activity enterprise" within the meaning of the Water Activity Law; and

WHEREAS, it is the intent of the City to continue the operation of the System as a water activity enterprise, and to formally establish the "City of Las Animas Water Activity Enterprise" under the Water Activity Law;

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LAS ANIMAS, COLORADO:

Section 1. Establishment of Enterprise. There is hereby established, pursuant to the terms and provisions of the Water Activity Law, Title 37, Article 45.1, Colorado Revised Statutes, the "City of Las Animas Water Activity Enterprise" (the "Enterprise"). The Enterprise shall consist of the business represented by all of the City's water facilities and properties, now owned or hereafter acquired, whether situated within or without the City boundaries, including all present or future improvements, extensions, enlargements, betterments, replacements, or additions thereof or thereto (the "System"). The Enterprise shall have all of the authority, powers, rights, obligations, and duties as may be provided or permitted by the Water Activity Law, and as may be further prescribed by ordinance or resolution of the City.

Section 2. Governing Body. The governing body of the Enterprise (the "Governing Body") shall be the City Council of the City, and shall be subject to all of the applicable laws, rules, and regulations pertaining to the City Council. Whenever the City Council is in session, the Governing Body shall also be deemed to be in session. It shall not be necessary for the Governing Body to meet separately from the regular and special meetings of the City Council, nor shall it be necessary for the Governing Body to specifically announce or acknowledge that actions taken thereby are taken by the governing body of the Enterprise. The Governing Body may act pursuant to resolution or ordinance, and may otherwise conduct its affairs, in the same manner and subject to the same laws which apply to the City Council for the same or similar matters; provided that in accordance with §37-45.1-104(2), C.R.S., the Governing Body may authorize the issuance of bonds by adoption of a resolution.

Section 3. Maintenance of Enterprise Status. The Enterprise shall at all times and in all ways conduct its affairs so as to continue to qualify as a "water activity enterprise"

within the meaning of §37-45.1-102, C.R.S., and as an "enterprise" within the meaning of Article X, Section 20, Colorado Constitution. Specifically, but not by way of limitation, the Enterprise is not authorized, and shall not, receive 10% or more of its annual revenue in grants from all Colorado state and local governments combined.

Section 4. Issuance of Bonds. The Enterprise is authorized to issue bonds, notes, or other obligations payable from the revenues derived or to be derived from the System, in accordance with the Water Activity Law. The City Council shall also authorize the issuance of such bonds, notes, or other obligations by adoption of an ordinance in accordance with Part 4 of Article 35 of Title 31, C.R.S., and in so doing shall be deemed to be acting as both the Governing Body and the City Council.

Section 5. Ratification and Approval of Prior Actions. All actions heretofore taken by the officers of the City and the members of the Council, not inconsistent with the provisions of this Ordinance, relating to the operation or creation of the Enterprise, are hereby ratified, approved, and confirmed.

Section 6. Repealer. All orders, bylaws, ordinances, and resolutions of the City, or parts thereof, inconsistent or in conflict with this Ordinance, are hereby repealed to the extent only of such inconsistency or conflict.

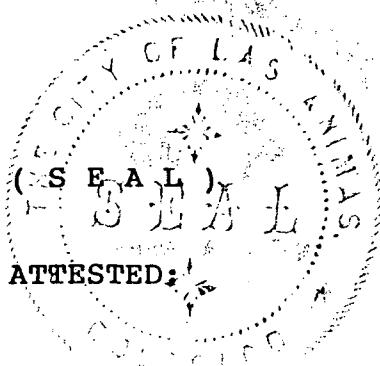
Section 7. Severability. If any section, paragraph, clause, or provision of this Ordinance shall for any reason be held to be invalid or unenforceable, the invalidity or unenforceability of such section, paragraph, clause, or provision shall not affect any of the remaining provisions of this Ordinance, the intent being that the same are severable.

Section 8. Emergency Declaration. Insofar as it is necessary to secure the funds to enable the City to commence with the acquisition and construction of the certain System improvements, the provisions of this Ordinance are hereby declared to be necessary to the immediate preservation of the public health and safety, and shall become effective upon adoption in accordance with Section 31-16-105, C.R.S.

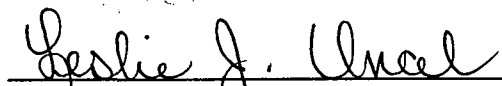
Section 9. Recording and Authentication. Immediately upon adoption hereof, this Ordinance shall be recorded in a book kept for that purpose, authenticated by the signatures of the Mayor and the City Clerk, and published as required by law.

INTRODUCED, READ AND PASSED on first reading at a special meeting of the City Council the 6th day of July, 1993; ordered published in full in the Bent County Democrat in accordance with law in its issue of 7-22, 1993, and consideration on final passage set for a regular meeting of the City Council to be held on the 2nd day of November, 1993, at 7:30 P.M. at the City Hall in Las Animas, Colorado.

INTRODUCED, READ, AND FINALLY PASSED AND ADOPTED ON SECOND READING on the 2nd day of November, 1993.




Mayor


City Clerk